



February 26, 1999

SENATE BILL No. 301

DIGEST OF SB 301 (Updated February 25, 1999 2:52 pm - DI 100)

Citations Affected: IC 27-6; IC 27-9.

Synopsis: Reinsurance. Adds a contractual requirement that must be met by a reinsurer to allow a domestic ceding insurer credit for reinsurance. Requires that reinsurance is payable under a contract reinsured by an assuming insurer on the basis of reported claims in liquidation proceedings without diminution due to insolvency of the ceding insurer, subject to court approval. Provides that payments under a reinsurance contract must be made to the ceding insurer or the ceding insurer's domiciliary liquidator unless: (1) otherwise provided in the contract; or (2) prior to the initiation of the insolvency proceedings, the assuming insurer assumes the policy obligations to policy payees.

Effective: July 1, 1999.

Zakas

January 7, 1999, read first time and referred to Committee on Insurance and Financial Institutions.

February 25, 1999, amended, reported favorably — Do Pass.

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February 26, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 301

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-6-10-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. Credit for
3 reinsurance shall be allowed ~~a~~ **to any** domestic ceding insurer as either
4 an asset or a deduction from liability on account of reinsurance ceded
5 only when:

6 (1) the reinsurer meets the requirements of:

7 (1) (A) section 8 of this chapter;

8 (2) (B) section 9 of this chapter;

9 (3) (C) sections 10 and 12 of this chapter;

10 (4) (D) sections 11 and 12 of this chapter; or

11 (5) (E) section 13 of this chapter; **and**

12 (2) **the reinsurance contract provides in substance that, in the**
13 **event of the insolvency of the ceding insurer, the reinsurance**
14 **is payable under a contract reinsured by the assuming insurer**
15 **on the basis of reported claims allowed in the liquidation**
16 **proceedings, subject to court approval, without diminution**
17 **because of the insolvency of the ceding insurer. Payments**

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under this subdivision must be made directly to the ceding insurer or to the ceding insurer's domiciliary liquidator except as provided in IC 27-9-3-30. The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to an assuming insurer of the pendency of a claim against the ceding insurer on the contract reinsured within a reasonable time after the claim is filed in the liquidation proceeding. During the pendency of the claim, any assuming insurer may investigate the claim and interpose in the proceeding where the claim is to be adjudicated, at the assuming insurer's expense, any defenses that the assuming insurer considers available to the ceding insurer or the liquidator. If two (2) or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense must be apportioned under the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.

SECTION 2. IC 27-9-3-30.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 30.1. (a) Reinsurance must be payable under a contract reinsured by an assuming insurer on the basis of reported claims allowed in the liquidation proceedings, subject to court approval, without diminution because of the insolvency of the ceding insurer. Payments must be made directly to the ceding insurer or to the ceding insurer's domiciliary liquidator except when:

- (1) the contract or other written agreement specifically provides another payee of the reinsurance in the event of the insolvency of the ceding insurer; or
- (2) before the initiation of the insolvency proceedings, the assuming insurer, with the consent of the direct insured, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer to policy payees and in substitution for the obligations of the ceding insurer to the payees.

(b) During the pendency of a receivership proceeding, an assuming insurer, with the consent of the direct insured and the receiver, subject to court approval, may assume policy obligations of the ceding insurer as direct obligations of the assuming insurer to the policy payees and in substitution for the obligations of the ceding insurer to the payees.



1 SECTION 3. IC 27-9-3-30 IS REPEALED [EFFECTIVE JULY 1,
2 1999].

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 301, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, delete "admitted".

Page 1, line 17, after "because of" insert "the".

Page 2, line 2, delete "when" and insert "**as provided in IC 27-9-3-30.**".

Page 2, delete lines 3 through 11.

Page 2, line 12, after "The" insert "**reinsurance agreement may provide that the**".

Page 2, line 21, delete "The expense may be filed as a claim against the".

Page 2, delete lines 22 through 23.

Page 2, line 24, delete "a result of the defense undertaken by the assuming insurer."

Page 2, line 32, before "Reinsurance" insert "(a)".

Page 2, line 37, delete "the".

Page 2, line 38, before "contract" insert "**the**".

Page 2, line 41, after "(2)" insert "**before the initiation of the insolvency proceedings,**".

Page 3, between lines 3 and 4, begin a new paragraph and insert:

"(b) During the pendency of a receivership proceeding, an assuming insurer, with the consent of the direct insured and the receiver, subject to court approval, may assume policy obligations of the ceding insurer as direct obligations of the assuming insurer to the policy payees and in substitution for the obligations of the ceding insurer to the payees."

and when so amended that said bill do pass.

(Reference is to SB 301 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 10, Nays 0.

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